

## House File 393 - Introduced

HOUSE FILE 393

BY HALL, DAWSON, STUTSMAN,  
FINKENAUER, OURTH,  
ANDERSON, OLDSON, HANSON,  
and MASCHER

### A BILL FOR

1 An Act requiring risk assessments and electronic monitoring of  
2 criminal defendants under certain conditions, and providing  
3 penalties.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 664A.7, subsection 5, Code 2015, is  
2 amended to read as follows:

3 5. a. Violation of a no-contact order entered for the  
4 offense or alleged offense of domestic abuse assault in  
5 violation of section 708.2A or a violation of a protective  
6 order issued pursuant to chapter 232, 235F, 236, 598, or 915  
7 constitutes a public offense and is punishable as a simple  
8 misdemeanor. Alternatively, the court may hold a person  
9 in contempt of court for such a violation, as provided in  
10 subsection 3.

11 b. If a person is convicted of a violation of a no-contact  
12 order or a protective order under this subsection, or  
13 alternatively if the person is held in contempt of court for  
14 such a violation, as provided in subsection 3, the court shall  
15 order the person to submit to a risk assessment pursuant to  
16 section 901.5C.

17 Sec. 2. Section 708.2B, Code 2015, is amended to read as  
18 follows:

19 **708.2B Treatment of domestic abuse offenders.**

20 1. As used in this section, "*district department*" means  
21 a judicial district department of correctional services,  
22 established pursuant to section 905.2. A person convicted of,  
23 or receiving a deferred judgment for, domestic abuse assault  
24 as defined in section 708.2A, shall report to the district  
25 department in order to participate in a batterers' treatment  
26 program for domestic abuse offenders. In addition, a person  
27 convicted of, or receiving a deferred judgment for, an assault,  
28 as defined in section 708.1, which is domestic abuse, as  
29 defined in section 236.2, subsection 2, paragraph "e", may be  
30 ordered by the court to participate in a batterers' treatment  
31 program. Participation in the batterers' treatment program  
32 shall not require a person to be placed on probation, but  
33 a person on probation may participate in the program. The  
34 district departments may contract for services in completing  
35 the duties relating to the batterers' treatment programs. The

1 district departments shall assess the fees for participation  
2 in the program, and shall either collect or contract for the  
3 collection of the fees to recoup the costs of treatment,  
4 but may waive the fee or collect a lesser amount upon a  
5 showing of cause. The fees shall be used by each of the  
6 district departments or contract service providers for the  
7 establishment, administration, coordination, and provision of  
8 direct services of the batterers' treatment programs.

9 2. In addition to the requirements of subsection 1, the  
10 court shall order a person convicted of domestic abuse assault  
11 in violation of section 708.2A to submit to a risk assessment  
12 pursuant to section 901.5C.

13 3. District departments or contract service providers shall  
14 receive upon request peace officers' investigative reports  
15 regarding persons participating in programs under this section.  
16 The receipt of reports under this section shall not waive the  
17 confidentiality of the reports under section 22.7.

18 Sec. 3. Section 708.7, subsection 2, Code 2015, is amended  
19 by adding the following new paragraph:

20 NEW PARAGRAPH. c. A person convicted of harassment in the  
21 first degree shall be ordered to submit to a risk assessment  
22 pursuant to section 901.5C if the offense involved a domestic  
23 relationship and the sentence exceeds one year.

24 Sec. 4. Section 708.11, Code 2015, is amended by adding the  
25 following new subsection:

26 NEW SUBSECTION. 3A. A person convicted under subsection 3,  
27 paragraph "a", or subsection 3, paragraph "b", subparagraph (1),  
28 shall be ordered to submit to a risk assessment pursuant to  
29 section 901.5C if the offense involved a domestic relationship.

30 Sec. 5. NEW SECTION. 901.5C Violations requiring a risk  
31 assessment — electronic tracking.

32 1. As used in this section, unless the context otherwise  
33 requires:

34 a. (1) "*Family or household members*" means spouses, persons  
35 cohabiting, parents, or other persons related by consanguinity

1 or affinity.

2 (2) "*Family or household members*" does not include children  
3 under age eighteen of persons listed in subparagraph (1).

4 b. "*Intimate relationship*" means a significant romantic  
5 involvement that need not include sexual involvement.  
6 An intimate relationship does not include casual social  
7 relationships or associations in a business or professional  
8 capacity.

9 c. "*Offense involving a domestic relationship*" means an  
10 offense involving any of the following circumstances:

11 (1) The offense is between family or household members who  
12 resided together at the time of the offense.

13 (2) The offense is between separated spouses or persons  
14 divorced from each other and not residing together at the time  
15 of the offense.

16 (3) The offense is between persons who are parents of the  
17 same minor child, regardless of whether they have been married  
18 or have lived together at any time.

19 (4) The offense is between persons who have been family or  
20 household members residing together within the past year and  
21 are not residing together at the time of the offense.

22 (5) (a) The offense is between persons who are in an  
23 intimate relationship or have been in an intimate relationship  
24 and have had contact with one another within the past year  
25 immediately preceding the time of the offense. In determining  
26 whether persons are or have been in an intimate relationship,  
27 the court may consider the following nonexclusive list of  
28 factors:

29 (i) The duration of the relationship.

30 (ii) The frequency of interaction.

31 (iii) Whether the relationship has been terminated.

32 (iv) The nature of the relationship, characterized by  
33 either party's expectation of sexual or romantic involvement.

34 (b) A person may be involved in an intimate relationship  
35 with more than one person at a time.

1     2. *a.* If a person is convicted of any of the following  
2 offenses, and ordered to be supervised by the judicial district  
3 department of correctional services or to participate in a  
4 batterers' treatment program for domestic abuse offenders, the  
5 court shall order the person to submit to a risk assessment:

6     (1) The offense is a violation of section 664A.7, subsection  
7 5.

8     (2) The offense is a violation of section 708.2A.

9     (3) The offense is a violation as described in section  
10 708.7, subsection 2, paragraph "c".

11    (4) The offense is a violation as described in section  
12 708.11, subsection 3A.

13    *b.* If a person is held in contempt of court for a violation  
14 of section 664A.7, and ordered to be supervised by the judicial  
15 district department of correctional services or to participate  
16 in a batterers' treatment program for domestic abuse offenders,  
17 the court shall also order the person to submit to a risk  
18 assessment.

19    3. The risk assessment shall be performed by the judicial  
20 district department of correctional services or a contract  
21 service provider of a batterers' treatment program for domestic  
22 abuse offenders, using a validated risk assessment approved by  
23 the department of corrections. The court shall consider the  
24 risk assessment in determining the appropriate conditions for  
25 release.

26    4. The court may order the defendant to participate in a  
27 program that includes the use of an electronic tracking and  
28 monitoring system based upon the defendant's risk assessment.  
29 If an electronic tracking and monitoring system is ordered, the  
30 court shall order the defendant to pay the costs associated  
31 with the imposition of the system. If the defendant fails to  
32 pay the fees of the electronic tracking and monitoring system  
33 in a timely manner, the court may impose garnishment of the  
34 defendant's wages in order to meet the payment obligation.

35

EXPLANATION

1           The inclusion of this explanation does not constitute agreement with  
2           the explanation's substance by the members of the general assembly.

3       This bill requires a risk assessment and electronic  
4 monitoring of a criminal defendant under certain conditions.

5       Under the bill, if a person convicted of a violation of  
6 a no-contact order or a protective order pursuant to Code  
7 chapter 664A, or alternatively the person is held in contempt  
8 of court for such a violation, and ordered to be supervised by  
9 the judicial district department of correctional services or  
10 to participate in a batterers' treatment program, the court  
11 shall order the person to submit to a risk assessment pursuant  
12 to new Code section 901.5C. If a person is convicted of  
13 domestic abuse assault under Code section 708.2A, harassment  
14 under Code section 708.7(2), if the offense involved a domestic  
15 relationship, or stalking under Code section 708.11(3)(a) or  
16 (3)(b)(1), if the offense involved a domestic relationship, the  
17 bill also requires the person to submit to a risk assessment.  
18 The bill defines "domestic relationship" similarly to the  
19 relationships required to commit "domestic abuse" in Code  
20 section 236.2.

21       The bill requires the risk assessment be performed by  
22 the judicial district department of correctional services  
23 or a contract service provider of a batterers' treatment  
24 program for domestic abuse offenders, using a validated risk  
25 assessment approved by the department of corrections. The bill  
26 also requires the court to consider the risk assessment in  
27 determining the appropriate conditions for release.

28       The bill provides that the court may order the defendant to  
29 participate in a program that includes the use of an electronic  
30 tracking and monitoring system as a condition of release in a  
31 mandatory risk assessment situation for violating a no-contact  
32 order or protective order, being convicted of domestic abuse  
33 assault or being convicted of certain harassment or stalking  
34 offenses that involve a domestic relationship.